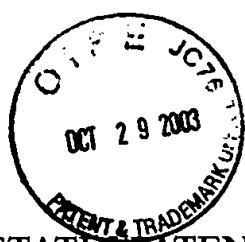


Docket No.: CI-0039C1

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Martin MacPHEE, William DROHAN, Randall :
KENT, Tom LYNCH, Glenn CALVERT, Shirley :
MIEKKA, David MANN and Wilson BURGESS :
Serial No.: Continuation App of 10/197,248 : Group Art Unit: 1744
Confirm. No.: Unassigned : Examiner: Elizabeth McKane
Filed: October 29, 2003 :
For: METHODS FOR STERILIZING BIOLOGICAL MATERIALS BY
MULTIPLE RATE

PETITION TO MAKE PATENT APPLICATION
SPECIAL UNDER 37 C.F.R. § 1.102(d)

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

Applicants hereby respectfully petition for the above-identified application to be made special and thereby advanced out of turn for examination. This Petition is made under 37 C.F.R. §1.02(d) based on actual infringement of at least one claim of the application, as discussed below.

The invention, as set forth in the claims, is directed to methods for sterilizing a preparation containing at least one tissue. These methods involve irradiating the preparation containing at least one tissue at ambient temperature or below with a suitable radiation for a period of time effective to sterilize the preparation containing at least one tissue. As recited in the claims, the effective dose rate used for the irradiation is not constant for the entire irradiation period, but must include a rate between about 0.1 kGy/hr to about 3.0 kGy/hr for at least a

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portion of the irradiation period and a rate of at least 6.0 kGy/hr for at least another portion of the irradiation period.

The undersigned hereby states that: (i) on information and belief, there is at least one party currently using a sterilization method in this country that literally infringes at least one of the claims; (ii) that a rigid comparison has been made between this infringing sterilization method and the claims of the above-identified application and, in my opinion, at least some of the claims are unquestionably infringed; and (iii) a careful and thorough search of the prior art has been made.

An Information Disclosure Statement is being filed concurrently herewith.

In view of the foregoing, it is respectfully submitted that the above-identified application should be accorded special status and, therefore, be advanced out of turn for examination. Included herewith is a petition fee in the amount of \$130.00. While it is believed that no other fees are due, please charge any such fees to deposit account number 16-0607.

Respectfully submitted,
FLESHNER & KIM, LLP



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Date: October 29, 2003

DRM\TMS:dep